

**Stafford County
BOARD OF ZONING APPEALS**

MINUTES July 24, 2007

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) on Tuesday, July 24, 2007 was called to order with the determination of a quorum at 7:00 p.m. by Chairman Cecelia Kirkman in the ABC Conference Room of the Stafford County Government Center. Ms. Kirkman introduced the Board members and staff and explained to the public present, the purpose, function, and process of the Board of Zoning Appeals. She asked the members of the public who planned to speak at this meeting to please stand and raise their right hand, swearing or affirming to tell the truth.

Ms. Kirkman said the Bylaws of this Board state that the applicant is allowed up to ten minutes to state their case, the other speakers are allowed up to three minutes to testify, and the applicant is allowed up to three minutes for rebuttal.

Members Present: Cecelia Kirkman, Julie Rutledge, Steven Beauch, Larry Ingalls, and Angelo Amador

Members Absent: John Overbey and Ernest Ackermann

Staff Present: Rachel Hudson, Acting Zoning Administrator
Melody Musselman, Senior Zoning Technician
Wanda Doherty, Recording Secretary

Ms. Kirkman asked if there are any changes or revisions to the agenda.

Ms. Musselman said case V07-2/2700357, applicant Bobby and Louise Crisp is representative Mr. Clark Leming has requested a postponement until the full BZA membership is present.

Declarations of Disqualification's:

Mr. Ingalls and Ms. Rutledge both stated their company's have worked with Leming and Healy who is representing case SE06-13/2600643 Mt. Ararat Baptist Church but have not worked on the case and feel they can render an unbiased decision.

PUBLIC HEARINGS:

Ms. Musselman reviewed the following case for the Board.

SE07-09/2700309 - SAMUEL CAMERON - Requests a Special Exception per Stafford County Code, Section 28-35 Table 3.1 "District Uses & Standards, A-2, Rural Residential", to allow parking of a commercial vehicle on Assessor's Parcel 18H-1-6, zoned A-2, Rural Residential, located at 12 Carter Lane, Rosewood Estates.

Ms. Kirkman asked if the violation was the result of a specific complaint.

Ms. Musselman said this was a complaint.

Mr. Cameron said he understands the regulations for parking and at this point, he is asking for a 60-day waiver. He said while the vehicle is of a commercial design it is not involved in commercial activity at this time. He said there were two vehicles and at this point he is in the process of disposing of them but it is not going as quickly as he intended. He said the vehicle is not parked in the driveway but further back and it is difficult to even observe from the street. He said as far as the neighborhood there are non-commercial vehicles parked that are twice the size of his commercial vehicles and he understands the distinction. He said he is asking a 60-day waiver to give him time to arrange disposition of the vehicles.

Ms. Rutledge made the motion to postpone the application to the next meeting to give the applicant time to either present a case or seek removal of the property.

Ms. Kirkman said the Board can entertain motions after we have completed the Public Hearing.

Ms. Rutledge said she thinks they can table it at anytime.

Mr. Amador said the applicant could request to table his case.

Ms. Rutledge asked the applicant if he was requesting to table his case.

Mr. Cameron said he was requesting to table his case.

Mr. Ingalls said you would like it tabled for 60 days, is that correct.

Mr. Cameron said yes he would like the 60 days and said he should have resolved and would not need a Special Exception. He said the market for commercial vehicles is slow but as said there were two and now there is one so he should be able to dispose of the other before the end of the 60 days.

Mr. Amador said the applicant mentioned dispose and on the documents, it says leasing.

Mr. Cameron said originally he operated a business prior to coming to this location and has since decided to get rid of the vehicles.

Ms. Kirkman asked staff how this would affect compliance.

Ms. Hudson said since he has come before you this evening with a request to delay they would consider this and stay the violation notice for 60 days.

Mr. Amador said the applicant is asking that his application for Special Exception be tabled from this hearing to the September 2007 meeting.

Mr. Cameron said that is correct and thanked the Board.

Ms. Kirkman said Public Hearings for tonight are closed and we are moving on to Unfinished Business. She said one item under Unfinished Business is the Mount Ararat Special Exception application.

UNFINISHED BUSINESS

SE06-13/2600643 - MOUNT ARARAT BAPTIST CHURCH - Requests a Special Exception per Stafford County Code, 28-38(j), "Performance Regulations, Exceptions to Open Space Ratio", to allow a reduction of the open space requirement on Assessor's Parcels 19-62C, 63, 63A, 64A, 67B, 67E, 67L, and 67N. The property is zoned A-1, Agricultural and A-2, Rural Residential, located at 65 Toluca Road.

Ms. Kirkman made a motion to approve the application with the following conditions.

Ms. Rutledge said she would like to make a point of order. She said she did not think it is appropriate to bring this as Unfinished Business. She said the application was tabled at the last meeting with a request of the applicant to come back with additional information as we requested. She said therefore she thinks it should go into not the public forum but should come back to the Board for motion and discussion. She said if we need to ask the applicant any questions at that time we should be able to do that.

Ms. Kirkman said she was going to rule that is not in order. She said the motion that was passed last meeting was after the Public Hearing and to defer action and discussion at this meeting. She said that moves it to Unfinished Business and she was going to continue with the motion she was making.

Ms. Kirkman made a motion to approve the application SE06-13/2600643 with the following conditions.

Mr. Amador said he was sorry to interrupt but had a question about due process. He said the case is listed as a Public Hearing and not Unfinished Business.

Ms. Kirkman said that was a mistake on staff's part.

Mr. Amador said do we have the actual motion language from the last meeting. He said the Chairman's letter sent to the petitioners actually talked about that information.

Ms. Kirkman said she did not see that and would be glad to verify that.

Ms. Rutledge said she had a point of order that you are not following our regular rules, traditions and the way we normally; Ms. Kirkman interrupted and said she would deal with one point of order at a time.

Ms. Kirkman said she was working on Mr. Amador's point order.

Mr. Amador said he would like to see a copy of the letter. He said he is referring to the July 20, 2007 letter from the Chair to the applicant addressing some points. He said from what he understood from the letter we would discuss these issues.

Ms. Kirkman said what she understood from the last meeting was that the vote was to defer and Public Hearing was already closed.

Ms. Kirkman said Ms. Rutledge your point of order.

Ms. Rutledge said her point of order was to deviate from standard procedures is not appropriate and we should handle this case the way we have handled every case that has come before us in the past. She said if an application was tabled, it would come to the Board and it would be up to the Board on whether or not the Public Hearing was closed or not. She said as is this case is closed already the Board would still have the right to open a Public Hearing and the board would have a motion discussion and have the ability to ask the applicant questions. She said with the option of re-opening the Public Hearing so to deviate from standard procedures of this board is to open the Board up to litigation.

Ms. Kirkman said she hears the concern and if you can point to where it says in the Bylaws or in the statute, this is our procedure she will entertain that point of order.

Ms. Rutledge said that is normally how we conduct business.

Ms. Kirkman said hearing no evidence the decision is not in the Bylaws or statute we will continue to move forward.

Ms. Kirkman said the motion she was making again was to approve the application SE06-13/2600643 with the following conditions:

- The applicant shall conduct a traffic impact analysis based on the maximum occupancy of the completed project, and shall make all traffic improvements necessary due to increased traffic created by the Church expansion. At a minimum, the applicant shall install a traffic signal at the intersection of Toluca Road and Garrisonville Road prior to beginning construction of Phase 3.
- Pedestrian crosswalks shall be clearly marked and signed along Toluca road at all entrances to the parking lots on the east side of Toluca Road for the purpose of providing safe connection to the church on the west side of Toluca Road.
- Sidewalks shall be provided along the east and west sides of Toluca Road to provide continuous pedestrian accessibility along the church's property.
- The maximum height for the two-story sanctuary shall not exceed 72 feet, not including any ornamentation or appurtenances.
- The maximum height of the bell tower shall not exceed 110 feet, measured from the ground, not including any ornamentation or appurtenances.
- The maximum height for any ornamentation or appurtenances on top of any building or structures shall not exceed 27 feet.
- The applicant shall obtain easements on adjacent properties for any off-site discharge of stormwater flow.
- The project shall be built as presented in the Generalized Development Plan (GDP) dated May 22, 2007 and there shall be no further reduction in the open space ratio. The open space ratio shall be not be less than 54.7% on Tract 1 (Parcel 64A); not less than 50.6% on tract 2 (Parcels 63A, 67B, 67E, 67N and 67L); and not less than 53.7% on Tract 3 (Parcels 63, 62C).
- Parking shall be provided at a rate of 1.5 units per five seats, calculated upon the combined number of seats in all sanctuaries, auditoriums, classrooms and any other seating areas. For those areas that do not have fixed seating, the number of seats shall be based on the maximum occupancy permit issued by the fire department.
- As the applicant applies for building permits for phase one, phase two or phase three, the applicant shall comply with all requirements of the Code of Stafford in effect at the time

of application for the building permit. If there is a conflict between the conditions of this special exception and the Code of Stafford, the more restrictive provision shall prevail.

- The special exception shall be revoked if any of the following occur. 1) the conditions have been violated; 2) federal, state or local statutes are violated; 3) there is any use of the property for purposes other than a place of worship and religious school, and the accessory uses associated with a place of worship and religious school; 4) if non-exempt activities as defined by the IRS are held on the site; and 5) any condition of the special exception is struck down or otherwise determined to be unenforceable.

Ms. Kirkman said hearing no second to the motion the motion fails.

Mr. Ingalls said he makes a motion that Mount Ararat Baptist Church Special Exception for open space case SE06-13/2600643. He said he moves that we grant a Special Exception to reduce the open space on Tract 1 (formally tax map parcel 64A) from the required 80% to 54%; Tract 2 (formally tax map parcels 63A, 67B, 67E, 67L, 67N) from 80% to 50%; Tract 3 (formally tax map parcels 63 and 62C) from 80% to 53% with the following conditions:

- The project shall be developed in substantial conformance to the Generalized Development Plan (GDP), by Welford Engineering Associates dated May 22, 2007.
- The location, size (width) and type of “Bufferyards” shall be installed as shown on the GDP. The applicant shall provide additional plantings, if future Ordinances are more restrictive, at the time of Site Plan approval.
- The applicant shall prevent car headlights from shining onto Route 610 and into residential dwellings located on adjacent parcels thru the use of berms, walls, planting, grading, or other methods. This condition shall be in force for all phases of the project in the event new residential dwellings are constructed on adjacent parcels.
- Parking lot lights shall be “cut off” or “shoe box” type light. The maximum height of parking lot lights shall be 30 feet.
- The amount of light from parking lot lights shall be reduced to the minimum necessary to provide security when the parking lot is not in use.
- The applicant shall meet the Conditions included with this Special Exception or any new requirements adopted by the County prior to submission of a Site Plan; whichever one is the most restrictive.

- This Special Exception on the subject property shall be for the use of a place of worship and all other accessory uses associated with a place of worship, and the approval of the

Special Exception does not grandfather any element of the GDP submitted with this request.

Mr. Ingalls said the Board of Zoning Appeals has determined the request for the Special Exception with the above conditions meets the requirements of Section 28-351 Grant of Special Exception's, Zoning Ordinance, County of Stafford.

Ms. Rutledge seconded the motion.

Mr. Ingalls said since he was the one who asked to table the decision he has considered the project based on what was presented to the Board and the knowledge we had after the last meeting. He said he thinks the conditions he has proposed answer his questions and he thinks some of the Board members questions, not necessarily every question. He said he believes it gives the Special Exception some credits as to what is happening today and what will happen in the future. He said it would see that some things would be done to protect our future residents and at the same time allow the project to proceed. He said, as some may know he had been in the forefront to move the open space to a Special Exception instead of a Variance. He said he still feels that way and thinks churches are one of those issues being in A-1 and having 80% has been an issue hard to meet. He said when the Board of Supervisors did make it a Special Exception he was gratified and with the conditions laid out we have done our duty by meeting our requirements of the Ordinance.

Ms. Rutledge said she seconded the motion for the same points and for comments made by Mr. Ingalls and believes it meets the requirements of a Special Exception. She said she has actually gone to the project, looked at the buffer areas, topography, and Toluca Road, feels VDOT, our state agency, is able, and will make sure that necessary traffic, and pedestrians are protected. She said she believes that the Stafford County Board of Supervisors in their resolution made very specific points and they have no authority to over ride those points. She said she feels that the project as it comes down through phases will be monitored by the County through the subdivision Ordinance and through Planning and it is not our duty over ride or oversee those areas.

Mr. Amador asked if there was any discussion prior to the meeting about bringing these motions forward. He said he did not expect motions prior to the hearing and this is not the way that things have been handled.

Ms. Rutledge said discussion between whom.

Mr. Amador said between members.

Mr. Ingalls said he talked to Ms. Kirkman today but as you can see, we have different views. He said he expected members to bring conditions from the last meeting so we could move forward.

Mr. Amador said he felt uncomfortable voting for conditions, we are here to hear the applicant to consent and address some questions. He said there was a letter from the Chairman dated July 20, 2007 saying these are all of the issues, which we hope you will address and conclusions have already been drawn. He said he would not vote until he had time to review the conditions and would like to hear from the applicant.

Ms. Rutledge said a point of order that as in the past as a Board we have asked the applicant to come to the podium so we can ask questions and get clarifications before we vote and she thinks that would be prudent this evening.

Ms. Kirkman said so you are asking to be able to ask for clarifications of the applicant.

Ms. Rutledge said for instance, are they even going to be able to meet these conditions and that is something normally as a rule we ask the applicant before we put those conditions in place. She said that would be prudent of us and maybe other members of the Board would have questions about these conditions and make their decisions.

Ms. Kirkman said the Board has no procedural mechanisms for that but is comfortable allowing that after we finalize the motion.

Ms. Rutledge said you have a motion and a second.

Ms. Kirkman said she is going to suggest some amendments and thinks it would be prudent to get all those on the table before we bring the applicants representative forward.

Mr. Amador said we have a motion and a second so what do we need.

Ms. Kirkman said she is going to say why she opposes the conditions and ask Mr. Ingalls for some friendly amendments. She said amendments are as follows;

1. The applicant shall conduct a traffic impact analysis based on the maximum occupancy of the completed project, and shall make all traffic improvements necessary due to increased traffic created by the Church expansion.

Ms. Kirkman said this is something that the applicant agreed to do and would you be willing to amend your condition.

Mr. Ingalls said no.

Ms. Kirkman said would you consider amending the following.

2. Pedestrian crosswalks shall be clearly marked and signed along Toluca road at all entrances to the parking lots on the east side of Toluca Road for the purpose of providing safe connection to the Church on the west side of Toluca Road.

Mr. Ingalls said he believes that will all be taken care of during the site plan and VDOT, no.

Ms. Kirkman said would you consider amending the following.

3. Sidewalks shall be provided along the east and west sides of Toluca Road to provide continuous pedestrian accessibility along the Church's property.

Mr. Ingalls said again he believes that will all be taken care of during the site plan and VDOT, no.

Ms. Kirkman said the applicant said the following height restrictions are acceptable would you be willing to amend.

4. The maximum height for the two-story sanctuary shall not exceed 72 feet, not including any ornamentation or appurtenances. The maximum height of the bell tower shall not exceed 110 feet, measured from the ground, not including any ornamentation or appurtenances. The maximum height for any ornamentation or appurtenances on top of any building or structures shall not exceed 27 feet.

Mr. Ingalls said that was the part of the Conditional Use Permit (CUP) that went before the Board of Supervisors and he did not think it the privilege of this Board to go back and second guess their decision even though the applicant may feel at this time he may be willing to reduce it. He said he thinks the Board of Supervisors have spoken on that issue.

Ms. Kirkman said on the stormwater management plans submitted for this site the plans stated there were at least four off-site discharge points for stormwater flow. She said would you be willing to a friendly amendment.

5. The applicant shall obtain easements on adjacent properties for any off-site discharge of stormwater flow.

Mr. Ingalls said stormwater management is again governed by the code that we currently have in place and again that issue will be addressed if need be, depending on the circumstances or design. He said to say they should get it, he could not say so he would not accept the amendment.

Ms. Kirkman said the GDP incorrectly states the required number of parking spaces; it states there is 1.5 per five seats and it only takes in account the seats for the large sanctuary. She said it does not take in account for the seats for the small sanctuary, auditorium, or the existing facility. She said would you be willing to accept a friendly amendment for the following.

6. Parking shall be provided at a rate of 1.5 units per five seats, calculated upon the combined number of seats in all sanctuaries, auditoriums, classrooms and any other seating areas. For those areas that do not have fixed seating, the number of seats shall be based on the maximum occupancy permit issued by the fire department.

Mr. Ingalls said our Ordinance calculates parking. He said we would not want to increase the number of spaces nor can we as a Board decrease the number required by the Zoning Ordinance so the amendment is not accepted.

Ms. Kirkman asked if there was any further discussion.

Mr. Ingalls said could we give the applicant a chance and could we ask him one question.

Mr. Leming representing Mount Ararat Baptist Church stepped forward.

Mr. Ingalls asked if he had a chance to review the conditions.

Mr. Leming said yes he had. He said while the meeting was going on the Engineer, Mr. Tyler, Rev. Gaston and I were talking, and they believe that many of the conditions are things that the church is planning to do anyway. He said the parking lot is proposed, the buffer yards were proposed, they have no problems with the shielding from the headlights on to 610 and the adjacent properties. He said number six is a restatement of what the law is and we have no problem with that and number seven is what we would expect. He said they believe they can move forward with all of the conditions successfully and they do not pose an undo burden on the church.

Ms. Rutledge said for the record she talked to Mr. Leming today after she viewed the property last night. She said they talked about some of the issues mentioned such as pedestrian walkways; studies that she feels are already monitored by VDOT and by the County.

Mr. Leming said after the last meeting they discovered that a traffic analysis was done. He said it looked specifically at Toluca Road, indicates there is no specific impact from the expansion on the existing traffic or level of service on Toluca Road. He said they have also entered into an agreement with VDOT that provides crosswalks along Toluca Road and sidewalks, signs and

Toluca Road is to be completely reconstructed. He said Toluca Road will be widened to current VDOT standard and that is not something that will not happen right away but something they

have entered into an agreement with VDOT. He said all the notes are showing on the site plans, which VDOT has under review, and working with Mr. Hamerick.

Ms. Rutledge asked who would be paying for this.

Mr. Leming said the church would.

Ms. Kirkman said she put a great deal of research into the conditions she suggested. She said the whole theory behind Special Exceptions is that there is an understanding that somehow what is being asked for these Special Exceptions have potential impacts. She said the Board had residents contact them specifically about traffic impacts and pedestrian safety and safety is one of the things the Board has to consider. She said she did review the traffic impact analysis and in fact sat down with staff to look at it. She said staff felt the traffic impact analysis was inadequate because it did not take into the specific peak occupancies of the church. She said many of the conditions she had recommended were conditions staff recommended as part of the CUP process and they were told they could not do because it had to do – Ms. Rutledge said I think we should ask staff those questions and let staff speak for themselves. Ms. Kirkman said please do not interrupt me Ms. Rutledge; I will recognize you when it is your turn to speak. She said these are things that were not just created; she said we frequently hear when churches come before the Board for expansion that neighbors are concerned about overflow parking. She said although there is a requirement that the applicant follow the GDP, the GDP does not follow the Zoning Ordinance Table 7.1 that lays out the required number of seats for parking. She said she would oppose the motion because without these kinds of conditions to address the pedestrian safety, traffic impact, and potential stormwater management problems this application does not meet the criteria and specifically could adversely affect adjacent properties.

Mr. Beauch said he would like to thank the Chairman and Mr. Ingalls for their hard work and dedication coming up with all the conditions. He said he feels Mr. Ingalls conditions are related more with the laws on the books and he will support his conditions.

Mr. Amador said his only concern was the procedures used. He said even the courts are more fair than what he has seen today. He said he is sure intentions were probably good and will consider supporting them but without hearing from the applicant, he felt he would not vote for the motions. He said he would state for the record that with the few meetings he has left as a member of the Board of Zoning Appeals he will probably oppose any motion brought in this manner.

Motion:

Ms. Kirkman said she is calling for the vote on the motion, which is to approve the application SE06-13/2600643 with all of the conditions as written by Mr. Ingalls.

Vote:

Motion to approve 4-1

Ms. Rutledge – yes

Ms. Kirkman – nay

Mr. Beauch –yes

Mr. Amador – yes

Mr. Ingalls – yes

REPORT BY DEPUTY ZONING ADMINISTRATOR

Ms. Hudson said the Comp Plan update is ongoing and the Zoning Ordinance update has started and is on going. She said there is a steering committee working on the Zoning Ordinance update with sub-committees of staff and the County Attorney's office will be reviewing the updates.

Ms. Hudson said the next meeting has one case coming before the Board, which is a Special Exception, and for September, they should have two cases.

Mr. Amador said he would be absent for the August meeting and Mr. Ingalls said he may also be absent for the August meeting.

ADOPTION OF MINUTES

May 22, 2007

Ms. Kirkman said with the absence of Board members this month the minutes would be carried over to the next meeting for motion and vote.

OTHER BUSINESS

Mr. Beauch said he received the email from Mr. Ackermann about the Chairman commenting on issues before the Board. He said it sparked his recollection of Roberts Rules. He said the jest of Roberts Rules is the Chairman needs to remain un-biased. He said in that light it did not say the Chairman is prevented from making motions but it said the Chairman should absolutely remain un-bias and not even comment on motions. He said it says if the Chairman is going to do this it would indicate favoritism one way or the other for the issue and the Chairman should step down and allow someone else to take the Chair and that should be done very rarely. He said he felt very uncomfortable last month and this month when the Chair offered motions. He said he

thinks we should have a friendly agreement that the Chair is not going to offer amendments or carry this further and talk about what is in Ms. Kirkman's book.

Ms. Kirkman said there are several issues; one is what the group is comfortable with versus with what is the letter of law under Roberts Rules. She said there were some substantial additions to Roberts Rules in 2001 so there could be some big differences. She said if we are going to get into Roberts Rules, she would like the Board to defer that decision or discussion until Ernie (Mr. Ackermann) is present because he is actually a good parliamentarian.

Mr. Beauch said we saw tonight some problems tonight that are pointed out in Roberts Rules when the Chair offers a motion then it is difficult for the Chair to control the meeting. He said it appeared to the crowd there was a lot of bias going on and he does not think that is good for the Board.

Ms. Kirkman said her second suggestion is to make amendments to the Bylaws and if we do that those would override what is said in Roberts Rules.

Mr. Amador said he agreed with policy even when he disagreed with Ms. Rutledge on policy issues and there was still more open discussion and people could walk out of here and feel they said their peace. He said being able to say what you wanted before the vote made people feel more comfortable about the way they voted.

Mr. Beauch said that is part of what he was trying to say.

Ms. Kirkman said she feels if that is to be the understanding the Board should institutionalize that understanding through the process of the Bylaws so it clarifies that is what we all want.

Ms. Rutledge asked if she could have some friendly discussion and said when she was Chair she read Roberts Rules. She said she really looked at the Chair's role in Roberts Rules and what she came away with was that the Chair is the mediator, in charge of not only running the public meeting but also allowing fair discussion and fair process on the Board. She said what she came away with is that the Chair is only to vote, to not get into discussion when they are going to be the tie vote and how important as a BZA that we put our statements on the record so they know why we are voting. She said she did not feel after reading Roberts Rules that the Chair is allowed to make a motion and since she has been on this Board about ten years a Chair has never made a motion. She said she understands where Mr. Beauch is coming from and that may be the solution. She said if there is an application before the Board and the Chair cannot be neutral, has a specific opinion, and wants to participate, they could ask the Vice Chair to step in and take over. She said if it needs to be addressed in our Bylaws then we should.

Ms. Kirkman said if the sense of the group is that they want to institutionalize that the Chair not make motions that someone needs to suggest a Bylaw change. She said the way a Bylaw change

works is at the next meeting someone needs to present the new proposed Bylaw change and at the subsequent meeting, we would vote on that Bylaw change.

Ms. Kirkman said we do have to make our positions clear for the record in terms of why we are voting so the Chair has to certainly at some time express their opinion at some time.

Mr. Amador said the role of the Chair is to facilitate the movement of the hearing. He said we all know that we all have opinions and you have to express them. He said the position of the Chair should not be to try to use the procedure to steam roll when there does not seem to be a problem with the flowing of the hearing, the positions of the other members. He said the Board speaks not to one member but to the group and the group needs to determine the evidence and positions aired before you can move forward. He said he sees the Chair saying your three minutes are up and if he would object because that is a neighbor, the Chair would say Mr. Amador his three minutes are up, or we are going to have to do it for everyone. He said it is not trying to impose procedures; this is a quazi judicial body but still a community body. He said people are coming here, Mr. Leming is an attorney but not everyone is and in General District Court, Circuit Court they give a lot of leeway. He said if we need to instutionalize and put it in the Bylaws; he would look at it. He said with as many disagreements of policy or positions we may have the procedures should not be one of them. He said he is use to be out voted on Variances or other cases and that is fine but the procedures should not be something that creates animosity. He said the Board should stick to other issues that are more important.

Mr. Ingalls said he has been the Chair a couple times and took the position that he would give the rest of the members time to speak before he would because he wanted to hear the other members opinions. He said he did that because he did not want to influence anything from the beginning.

Mr. Beauch said he likes the Chair to have the ability to comment last if that is what they want to do but not to offer a motion.

Mr. Ingalls said we have had occasions when the Chair has had to step down and make a motion if the other members would not. He said the Chair has stepped down and let the Vice Chair take over the meeting and made a motion from that side.

Mr. Beauch said the Board could have an understanding on procedure and maybe not have to change the Bylaws.

Ms. Kirkman said if the group feels as strongly as they have said tonight it should be made a part of the Bylaws.

Ms. Rutledge said from my opinion it was a non-issue because that is how the Board has always operated and that is how all Boards she has been on have operated. She said therefore she feels it

is inherent in our process and inherent in our Bylaws. She said she did not have to have it specific.

Mr. Amador said the moment you put it in the Bylaws you are going to be more restrictive. He said up to now it has not been an issue and other Chairs have seconded a motion if nobody has wanted to and has been done to move the meeting forward. He said he feels it would be more restrictive on the Chair if it is put in the Bylaws rather than if we have an agreement. He said he has been against alternates but what happens when there is only four people to do what you want and have those restrictions on the Chair through the Bylaws. He said if you want to do it in the Bylaws that is another lengthy process.

Mr. Beauch said are we saying we do not want to change the Bylaws and come to an agreement.

Mr. Amador said he thinks the members should come to some kind of agreement.

Ms. Rutledge said we could get a majority agreement of the Board.

Mr. Beauch said this needs to be discussed when the rest of the Board or full Board is present.

Ms. Rutledge said if it is ok to change the subject when the full Board is present we could also discuss procedures we want to use to bring back tabled/postponed cases being heard and how to proceed. She said she feels that it is very important we are opening the BZA Board open to litigation. She said it is important the Board follow standard procedures are consistent.

Ms. Kirkman said that is a good suggestion and she went through BZA records since the time she has been on the BZA and this case is the first case that we had a motion to defer after the Public Hearing had been closed and after several votes had been taken. She said this was a unique situation and she looked at what the Planning Commission and Board of Supervisors do under that situation. She said what they do under that situation is place the item under Unfinished Business and they do not open the Public Hearing.

Ms. Rutledge said this was not a deferral but a motion made by Mr. Ingalls to table. She said a substitute motion made by Mr. Ingalls in June to table Mount Ararat and for them to bring it back.

Mr. Amador said he saw the letter sent by the Chair and the record will show that the question was asked of the applicant be prepared when they come back in July to address the issues. He said how can tell an applicant to be prepared to address issues and then say we do not want to hear from you.

Ms. Kirkman said that is why it is important to have a copy of the draft minutes. She said it is a learning process for all of us.

Ms. Rutledge said prior to you being on the Board Ms. Kirkman, there were cases that were tabled and if the Public Hearing was closed we, as a Board would hear from the applicant. She said we would address the issues we asked them to bring back to us, close the Public Hearing

again, we did not have to hear from the public unless there were people who could not get to the prior meeting because of weather or whatever. She said it is a public forum and it is important that we do hear from the public. She said at the last meeting we did not really get comments for or against the Mount Ararat, case and we are not really hearing from the public on this issue. She said the Board received one letter and she personally is not receiving any emails.

Mr. Amador said the only time he has had a problem with procedure was when he wanted to ask a question of the applicant and the hearing was closed.

Ms. Kirkman asked if the Board thinks it should do more than it did tonight which means if we defer and want to ask questions of the applicant.

Mr. Ingalls said if we ask them to come back to address issues they need to have that time to do so.

Mr. Beauch said he left last months meeting wondering how we were going to get the information from the applicant because everything was closed. He said that is the first time the Board was in the middle of offering motions and yet the applicant was supposed to bring more information, it was a very unusual circumstance.

Ms. Rutledge said when cases come back to the Board (tabled, postponement, deferred) in the past to her recollection, the Board has always had the Secretary just briefly read the case again. She said that put the case on the record and it made sure the applicant had not changed what they were asking for. She said the Board would proceed to the motion, discussion or the applicant or Public Hearing and she thinks it is important to briefly read the case.

ADJOURNMENT

8:20 p.m.

Motion:

Mr. Ingalls made the motion to adjourn.

Mr. Amador seconded.

Vote:

Motion to approve 5-0

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Beauch – yes

Mr. Ingalls – yes

Mr. Amador - yes

WLD

Approved: _____ Date: _____
Rachel T. Hudson, Zoning Administrator